

DECISION

13288 Schwenker
P.L.I.

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-156591**DATE:** March 31, 1980**MATTER OF:** Walter A. Radeloff *[Claim for]* Annual Leave Ceiling *]*

DIGEST: An employee who had a 45 day annual leave ceiling left the federal service and received a lump sum payment. Upon re-entry into Federal service, three years later, the employee's annual leave ceiling is established at 30 days since he had used all of his previous 45 days of annual leave.

Mr. Walter A. Radeloff appeals our Claims Division Settlement, Z-2817694, dated November 15, 1979, which denied his claim to be given an annual leave ceiling of 45 days upon his reinstatement with the Government.

Mr. Radeloff served overseas from 1959-1962 and thus had a maximum annual leave ceiling of 45 days. He transferred to the United States and served with the Atomic Energy Commission. At the time of his transfer, Mr. Radeloff's annual leave ceiling was 45 days and it remained at 45 days until he separated from the Federal service in 1966. At that time, Mr. Radeloff received a lump sum payment for his unused annual leave. Mr. Radeloff re-entered Federal service in 1969 at which time his leave ceiling was set at 30 days.

Mr. Radeloff believes that his leave ceiling should have been set at 45 days upon re-entry into Federal service for the following reasons. His argument is that lump-sum payment of leave is not usage as applied by Chapter 630 of the Federal Personnel Manual. Therefore, since he had never "used" his annual leave his ceiling should be set at 45 days. We disagree with Mr. Radeloff's contention.

After Mr. Radeloff received his lump sum payment in 1966, he lost his right to have that leave reccredited to him as soon as the period covered by the lump sum expired. See 5 U.S.C. § 6306 (1976). After the period covered by the lump sum expired, Mr. Radeloff had received his full entitlement for his annual leave.

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In other words, at that time, he had "used" his annual leave and his leave accumulation was liquidated. 5 U.S.C. § 5551(a). When he re-entered Federal service, he became subject to the 30 day ceiling and he had no right to have the 45 day ceiling reinstated.

Accordingly, our Claims Division settlement is upheld.


For The Comptroller General
of the United States